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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/493,979 06/23/95 SAKUMOTO

K EXAMINER-SII

21M1/0118

MISKA V ART UNIT PAPER NUMBER

ELMER W GALBI
SEIKO COMMUNICATIONS OF AMERICA INC
1625 N W AMBER GLEN COURT STE 140
BEAVERTON OR 97006

DATE MAILED:

01/18/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-6 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-6 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

BEST AVAILABLE COPY

This reissue application was filed without the original patent or, if the original is lost or inaccessible, an affidavit or declaration to that effect which is required. The original patent, or an affidavit or declaration as to loss or inaccessibility of the original patent, must be received before the reissue application can be allowed. See 37 C.F.R. § 1.178.

The reissue oath or declaration filed with this application is defective because it fails to "distinctly specify the excess or insufficiency in the claims" as required by 37 CFR 1.175 (a)(3). Each "insufficiency" in the claims which applicant believes resulted in applicant claiming less than he had a right to claim should be set forth in the declaration.

The reissue oath or declaration filed with this application is also defective because it fails to particularly specify the errors and/or how the errors relied upon arose or occurred as required under 37 CFR 1.175(a)(5). Included are inadvertent errors in conduct, i.e., actions taken by the applicant, the attorney or others, before the original patent issued, which are alleged to be the cause of the actual errors in the patent. This includes how and when the errors in conduct arose or occurred, as well as how and when these errors were discovered. Applicant's attention is directed to *Hewlett-Packard v. Bausch & Lomb*, 11 USPQ2d 1750, 1758 (Fed. Cir. 1989).

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Applicant has failed to indicate the specific errors relied upon and how these errors occurred. Further, applicant has not specified when such errors occurred and were discovered. A general statement that applicant became aware of the insufficiency of the claims when Patent No. 5,329,501 issued is not adequate to meet the requirements noted above.

Claims 1-6 are rejected as being based upon a defective reissue declaration under 35 U.S.C. § 251. See 37 C.F.R. § 1.175.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to V. Miska whose telephone number is (703) 308-3096.

VM
December 20, 1995


VIT W. MISKA
PRIMARY EXAMINER
ART UNIT 217